Environmental Laws, Regulations, Executive Orders and Policies

Fort Wainwright, Alaska

Environmental Officer Course

2011

Outline

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II. Environmental Liability
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DoD and the Environment

- By 1993 the Department of Defense
  - estimated that military bases in the U.S. alone harbored 20,000 toxic waste sites;
  - was responsible for 81% of all federal facilities on the National Priorities Listing; and
  - was involved in some phase of cleanup on 1,800 military bases at home and abroad.

DoD and the Environment

Encroachment Pressures

- Post-Cold War downsizing of the military.
- Defense budget cuts; from 50% of U.S. budget in 1960 to 16% of U.S. budget in 1998.
- Development near military training areas.
- Environmental and NR regulations threaten military readiness.

DoD and the Environment

Regulations vs. Military Readiness

- Readiness and Range Preservation Initiative (2002)
  - Revised Migratory Bird Treaty Act;
  - Endangered Species Act; and
  - Marine Mammal Protection Act.

- Since 2002, DoD has repeatedly but unsuccessfully attempted to be exempt from requirements of the:
  - Clean Air Act;
  - Resource Conservation and Recovery Act; and
  - CERCLA.

Environmental Liability

Criminal Penalties

- Federal Facilities Compliance Act
  - Passed in 1992, allowed Federal and State regulators to inspect and fine the garrison.
- Types of Violations
  - Negligent
  - Knowing
  - Knowing endangerment

Environmental Liability

Fines & Penalties

Fort Lewis, WA, 1996

- NOV for local Air Pollution - Civil & Criminal
  - Detonated tear gas and smoke devices after an on-post exercise to avoid returning munitions to ASP.
  - Smoke, haze and gas drifted into civilian neighborhood at night.
  - Citizens were forced to vacate homes, had difficulty breathing.
  - Company Commander relieved and adverse administrative action taken against two NCOs.

Fort Carson, CO, 1997

- Failed to Maintain Satellite Accumulation Areas - $579
- Failure to Provide Initial Hazardous Waste Training, Conduct an Annual Review and Maintain Training Records - $12,000-15,000

Environmental Liability

Fines & Penalties

Fort Wainwright, AK, 1999

- CAA - $1.6 million
  - 8 violations at central heating and power plant.
  - Failed to comply with permit over several years.
  - Two Army officers prosecuted.

Fort Richardson, AK, 1996-1997

- Polluted State Land - $40,000
  - Winter exercise in 1996
  - Spilled diesel fuel when Soldiers changed fuel cans for tent stoves.
  - Discovered in spring 1997; initiated a long investigation.
  - Two Army Majors prosecuted.

Environmental Liability

Fines & Penalties

Fort Drum, NY, 1999
- Failed to monitor, test and keep records for underground storage tanks.
- $135,000 penalty charge for garrison and AAFES

Letterkenny Army Depot, PA, 2000
- Failure to conduct weekly inspections - less than 90 days .
- Storage areas (+ hence, operating without a permit)
- Failure to keep container closed (+ hence, operating without a permit).
- Failure to minimize release of a HW.
- $4,921

Fort Campbell, KY, 2000
- Failure to minimize fire hazard at HW storage area.
- $10,334

Eglin AFB, FL, 2001
- Failed to comply with HW permit.
- $72,481

Coast Guard Warrant Officer, HI, 2006
- Lied about discharge of bilge water from ship into Honolulu, HI harbor.
- $5,000 in fines, 200 hours community service, 2 years probation

Regulation Summary

- Federal Environmental Regulations
  - Bills to Acts (Clean Air Act, Clean Water Act, etc.)
  - U.S. Code of Federal Regulation (Title 40)
  - Environmental Protection Agency (EPA)
- Alaska Statutes and Regulation
  - Alaska Statutes (Title 46)
  - Alaska Administrative Code (Title 18)
  - Alaska Department of Environmental Conservation (ADEC)

Regulation Summary

- Executive Orders
  - Legally binding orders given by the President to Federal Administrative Agencies; to direct their execution of established laws or policies.
- Army Regulation 200-1 “Environmental Protection and Enhancement”
  - This regulation implements Federal, State, and local environmental laws and DoD policies for preserving, protecting, conserving, and restoring the quality of the environment.

Regulation Summary

U.S. Federal Law

- Rivers and Harbors Act – 1899
- Atomic Energy Act – 1954
- Solid Waste Disposal Act – 1965
- National Environmental PolicyAct – 1969
- Occupational Safety and Health Act – 1970
- Clean Air Act – 1970/1977/1990

Regulation Summary

U.S. Federal Law

- Federal Facilities Compliance Act – 1972
- Marine Protection, Research, and Sanctuaries Act – 1972
- Federal Insecticide, Fungicide, and Rodenticide Act – 1972/1988
- Clean Water Act – 1972/1977/1987
- Endangered Species Act – 1973
- Safe Drinking Water Act – 1974/1986

Regulation Summary

U.S. Federal Law

- Toxic Substances Control Act – 1976/1988
- Resource Conservation and Recovery Act – 1976
- Hazardous and Solid Waste Amendments – 1984
- Comprehensive Environmental Response and Liability Act (Superfund Act) – 1980
- Superfund Amendments and Reauthorization Act (SARA) – 1986

Media Areas

- Air Quality
- Water Quality
- Solid Waste
- Hazardous Waste
- Pesticides
- Toxic Substances
- Restoration
- Pollution Prevention
- Natural Resources
- Cultural Resources
- NEPA
- Tanks

Air Quality

- Purpose:
  - Achieve and maintain air quality standards while minimizing mission impacts.
- Major Program Components:
  - Assess the need for or obtain necessary permits.
  - Perform air emissions inventories as required.
  - Coordinate with State/local officials to ensure military activities do not impede air quality attainment goals.
  - Perform technology, permitting, and preconstruction assessments before beginning construction or reconstruction of air emission

Water Quality

- Purpose:
  - To reduce the pollutant loadings in source discharges and ensure efficient water reuse.
- Major Program Components:
  - Obtain/comply with discharge permits and plans.
  - Implement storm water and spill management plans.
  - Coordinate proposed military activities involving discharge of fill material into waters and wetlands.
  - If necessary, obtain a permit from the U.S. Army Corps of Engineers.

Solid Waste

- Purpose:
  - Increase solid waste diversion, program's economic benefit, and minimize waste generation.
- Major Program Components:
  - Operate a landfill specifically for construction and demolition debris.
  - Recycle and track waste diversion amounts, and economic benefit from reduced tipping fees.

Hazardous Waste

- Purpose:
  - Continually reduce the volume of HW generated and maintain compliance with HW regulations.
- Major Program Components:
  - Evaluate waste streams to ensure all hazardous wastes are properly identified.
  - Ensure HW management training is provided.
  - Implement hazardous waste management plan.
  - Maintain appropriate records in accordance with the Resource Conservation and Recovery Act.

Pesticides

- Purpose:
  - Monitor and control pests that pose a threat to the health and safety of the installation population.
- Major Program Components:
  - Prepare and integrated pest management plan requirements, responsibilities, and resources.
  - Maintain records and reports on all pesticide applications and operations.

Toxic Substances

- Purpose:
  - Prevent human exposure to asbestos, polychlorinated biphenyls, and lead-based paint hazards.
- Major Program Components:
  - Ensure asbestos training is given as necessary.
  - Remove/abate asbestos containing materials.
  - Ensure PCBs management compliance.
  - Prohibit the new use or introduction of PCBs.
  - Ensure lead-based paint abatement training is given.
  - Manage lead-based in place unless requirements dictate otherwise.

Restoration

- Purpose:
  - Perform cost-effective cleanup so that property is safe for Army use, and protects human heath and the environment.
- Major Program Components:
  - Identify clean up requirements at the site level.
  - Determine contamination migration.
  - Maintain a permanent document repository.
  - Determine, implement, and evaluate remedial actions.
  - Maintain an inventory and maps of land use controls resulting from response decisions.

Pollution Prevention

- Purpose:
  - Reduce hazardous materials and hazardous waste and implement pollution prevention initiatives.
- Major Program Components:
  - Periodically review operations and conduct pollution prevention opportunity assessments.
  - Maintain an installation pollution prevention plan.
  - Comply with Emergency Planning and Community Right-to-know Act.
  - Submit Toxic Release Inventory from installation activities each year to the EPA.

Natural Resources

- Purpose:
  - Integrate stewardship and compliance responsibilities with operational requirements and maintain programs for the conservation, utilization, and rehabilitation of natural resources on Army lands.
- Major Program Components:
  - Implement an integrated natural resource management plan.
  - Implement conservation measures to minimize impacts and sustain natural resources.
  - Provide no net loss in the capability of the installation lands to support the military mission.

Cultural Resources

- Purpose:
  - Protect against encumbrances to mission by ensuring that cultural resources are effectively manage.
- Major Program Components:
  - Develop an integrated cultural resources management plan for use as a planning tool.
  - Develop National Historic Preservation Act programmatic agreements and memorandums of agreement, and other compliance documents.
  - Establish government-to-government relationships with Federally recognized Tribes.

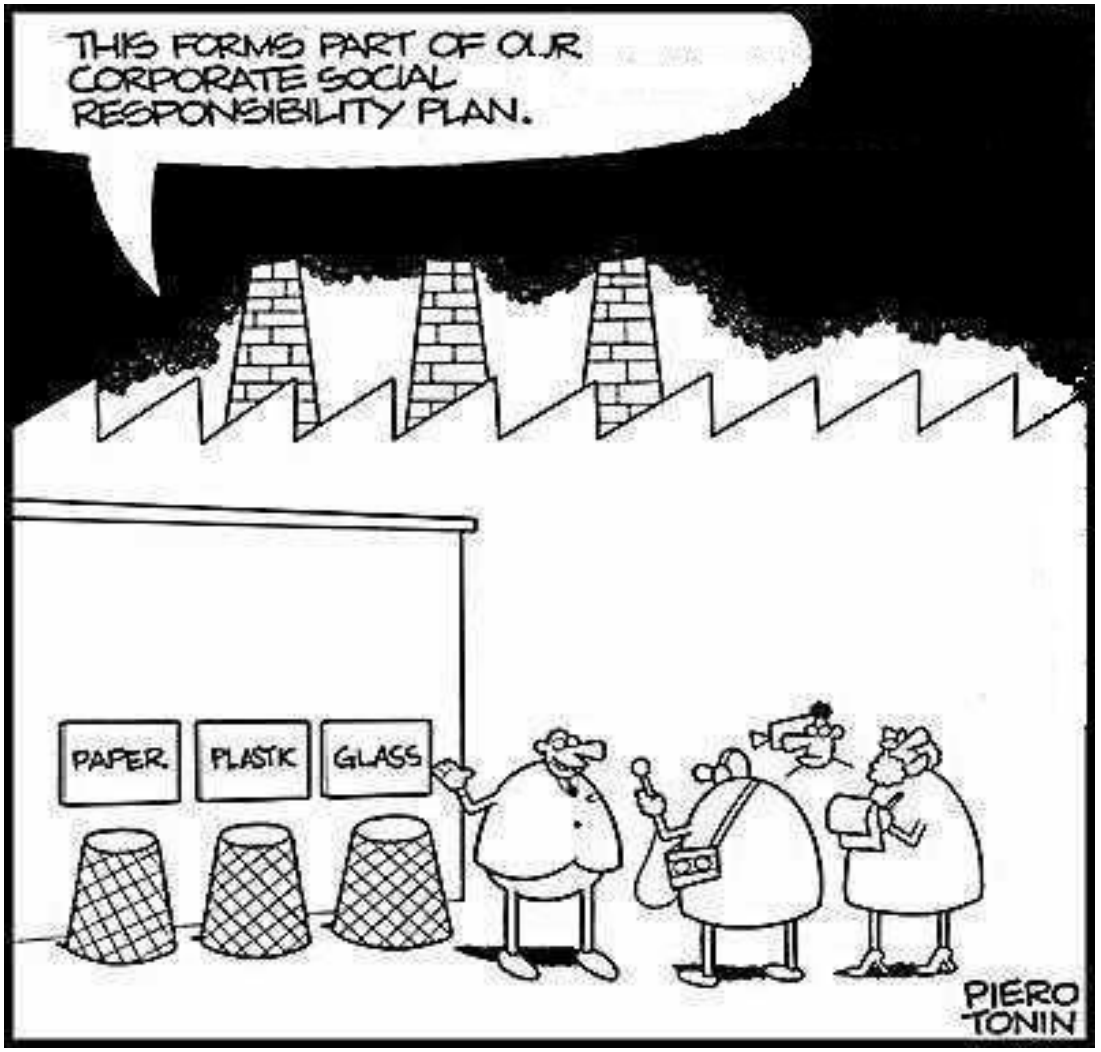
NEPA

- Purpose:
  - To integrate environmental considerations into planning and decision-making.
- Major Program Components:
  - Environmental analysis of Army actions affecting human health and the environment.
  - Provide criteria and guidance on actions.
  - Use environmental impact analyses to determine the best alternatives from an environmental perspective.

Tanks

- Purpose:
  - Storage tanks used to transport, store, and handle oil and hazardous substances will be managed to protect the environment and public health.
- Major Program Components:
  - Provide leak detection for regulated underground storage tanks.
  - Provide leak detection and overfill protection for above ground storage tanks.
  - Develop and implement a spill prevention, control and countermeasures plan.

"Beyond-compliance" Ethic



Environmental Security

- Environmental Security was a term incorporated in the 1998 National Security Strategy.

- Environmental Security concept:

  "Environmental resources are exhaustible, population growth diminishes them relentlessly, and ecological destruction leads to intra- and intersocietal conflict that may call for the intervention of U.S. troops."

Executive Orders

- EO 13128 (1999) – made pollution control goals associated with toxic release more stringent.
- EO 13423 (2007) – now public law, mandated federal facilities to have Environmental Management Systems.
- EO 13514 (2009) – details sustainability practices for federal facilities.

Army Programs

- Energy Efficiency
- Renewable Energy
- Water Conservation
- Sustainable Acquisition
- Reduction in Toxic and Hazardous Materials
- Recycling
- Vehicle Fleet Management
- Electronic Stewardship
- Sustainable Buildings

END

INSTALLATION MANAGEMENT COMMAND

IMCOM
SOLDIERS • FAMILIES • CIVILIANS

"Sustain, Support and Defend"